

MINUTES OF MEETING
WEST COUNTY BOARD OF ZONING ADJUSTMENTS
MARCH 23, 2005
(APPROVED APRIL 13, 2005)

The meeting was held at the hour of 1:30 p.m. in the Alameda County Building, 224 West Winton Avenue, Hayward, California.

REGULAR MEETING: 1:30 p.m.

MEMBERS PRESENT: Members Frank Peixoto, Chair; Members; Ron Palmeri; Lester Friedman and Judy Roos.

MEMBERS EXCUSED: Jewell Spalding.

OTHERS PRESENT: Phil Sawrey-Kubicek, Senior Planner; Eric Chambliss, County Counsel and Yvonne Bea Grundy, Recording Secretary

There were approximately 10 people in the audience.

CALL TO ORDER:

The meeting was called to order by the Chair at 1:30 p.m.

ANNOUNCEMENTS BY THE CHAIR:

OPEN FORUM:

Open forum is provided for any members of the public wishing to speak on an item not listed on the agenda. Each speaker is limited to three (3) minutes.

No one requested to be heard under open forum.

CONSENT CALENDAR:

1. **GUADALUPE LOZA/FRED FULCHER, CONDITIONAL USE PERMIT, C-8271**– Application to allow continued operation of a drive-in business (catering truck), in a PD-ZU-1487 (Planned Development, 1487th Zoning Unit) District, located at 691 West A Street, north side, corner, northwest of Royal Avenue, unincorporated Hayward area of Alameda County, bearing Assessor's Parcel 0432-0016-035-00. (Continued from February 11, April 14, April 28, May 26, July 14, September 8 and October 13, 2004; to be continued without discussion to June 22, 2005).

2. **GLEN DAVIS/LYLE COMPANY-SPRINT, CONDITIONAL USE PERMIT, C-8346** – Application to install and operate a wireless communications facility in a P-D (Planned Development) District, located at 21051 Western Boulevard, southwest side, approximately 423 feet northwest of

Blossom Way, unincorporated Cherryland area of Alameda County, designated Assessor's Parcel Number: 0429-0019-039-00. (Continued from January 12 and February 9, 2005).

WITHDRAWN.

Member Palmeri motioned to approve the Consent Calendar as submitted. Member Roos seconded the motion. Motion carried 4/0. Member Spalding was excused.

Regular Calendar

1. **SUSAN SUNG, CONDITIONAL USE PERMIT, C-8362** – Application to allow continued operation of a before and after school care program for 60 students in a P-D, ZU-1529 (Planned Development, 1529th Zoning Unit) District, located at 20001 Carson Lane, south side at the end of Kit Lane, unincorporated Castro Valley area of Alameda County, bearing Alameda County Assessor's Parcel Number: 085A-6402-028-00.

Staff recommended approval of the application. Public testimony was opened. The applicant Susan Sung was present but did not wish to make statement. Public testimony was closed. Member Palmeri motioned to adopt the staff finding of approval with the modification to Pre-Hearing Condition #4. Conditional Use Permit, C-8362, shall expire in five years, March 23, 2010. Member Friedman seconded the motion. Motion carried 4/0. Member Spalding was excused.

2. **ALAN CORMIER, CONDITIONAL USE PERMIT, C – 8368** – Application to allow continued operation of a boarding facility, dog day care, training and overnight boarding facility for up to 20 dogs in a R-1-L-B-E-CSU-RV (Single Family Residence, Limited Agricultural Uses, Conditional Secondary Unit, Recreational Vehicle, Five Acre Minimum Building Site Area, 100 feet Minimum Lot Width, 30 feet Front Yard) District, located at 6776 Crow Canyon Road, west side, approximately 0.57 miles south of Norris Canyon Road, unincorporated Castro Valley area, designated Assessor's Parcel Number: 0085-1700-003-06.

Staff announced that they were in favor of approval of the application subject to modifications. The permit shall expire in five years, Pre-Hearing Condition #8, shall be removed. As a result of a verbal recommendation, staff also recommended the removal of the Public Works Traffic Division condition in Pre-Hearing Recommendation #2c.

Member Palmeri asked if the current permit included Pre Hearing Recommendations 2, 4, 5, 6 and 7. Staff Member Phil Sawrey-Kubicek confirmed that all recommendations were currently in the existing permit with the slight modification to Recommendation #5. The prior permit stated the hours of operation where audible noise could be generated was until 6:00 p.m. Recommendation for the current permit was noise shall not be audible outside the property boundaries shall be permitted until 7:00 p.m. with the exception of one day a week. Audible noise may be heard until 7:30 p.m. or to the extent the County Noise Ordinance allows. Member Roos asked for clarification regarding a reference to special events that would be held to 8:45 p.m. and the drainage system on the property. She also inquired about the overgrown vegetation on the property.

Staff confirmed that the applicant would provide more information during their testimony regarding special events. The current drainage system was a French System and not an actual condition required by

Alameda County Public Works. Public testimony was opened.

The Applicant, Mr. Alan Cormier was present. He explained that once a year the facility held a Halloween Party. That was the only day that the facility went past the standard times of operation. Summer operating hours are from 7 a.m. to 7 p.m. periodically there are activities mid-day on the week-ends. Although he only received two pages of the staff report the only modification he would like to see was the deletion of Pre Hearing Recommendation #8. The overgrown vegetation is actually on another property just north of his. The owner allows him to cut the weeds three times a year to insure the surrounding area is well kempt. He will cut the weeds as soon as the weather will allow. Public testimony was closed.

Member Palmeri motioned to approve the application with the following changes: Pre-Hearing Recommendation #8 will be omitted. Public Works Traffic Division shall be deleted from Recommendation, 2#c. Member Friedman seconded the motion. Motion carried 4/0. Member Spalding was excused.

3. **FELIX R. DOMINGUEZ, CONDITIONAL USE PERMIT, C - 8371** – Application to allow operation of an automobile re-upholstery shop in a TC (Transit Corridor within the Ashland Cherryland Business District Specific Plan) located at 16330 East 14th Street, northeast side, approximately 200 feet southeast of 163rd Avenue, unincorporated Ashland area of Alameda County, designated Assessor's Parcel Number: 0080-0064-017-00.

The staff recommendation was approval of the application. Member Roos asked why Conditional Use Permit, C-2914 issued March 26, 1975 had no expiration date. Staff responded that some Permits from that time did not have an expiration date. Public testimony was opened. Mr. Felix Dominguez, the applicant was present.

Member Roos had the following questions for the applicant:

- Is there dedicated parking for the proposed shop, included in a signed lease agreement.
- Is the business sign made of a material acceptable as designated by the zoning ordinance.

Mr. Dominguez presented a portion of his lease agreement to the Board but did not have the entire document. Staff clarified that the sign was made of vinyl and belonged to a business that existed prior to the current application. Public testimony was closed.

Member Palmeri motioned to adopt the staff recommendation of approval with the addition of the following conditions: A signed lease agreement be provided within 10 days, confirming that four parking spaces are allotted for the business. No vehicle storage is permitted outside the building. The vinyl sign currently on the property shall be removed within 30 days. The permit shall expire in three years on March 23, 2008. Member Roos seconded the motion. Motion carried 4/0. Member Spalding was excused.

4. **GEORGINA MEEHAN / CAMELOT SCHOOL, CONDITIONAL USE PERMIT, C – 8372** – Application to allow continued operation of a private school for up to 300 students in an R-1-CSU-RV (Single Family Residence with Conditional Secondary Unit and Recreational Vehicle Regulations) District, located at 2330 Pomar Vista, east side at the end of Pomar Street, unincorporated Castro Valley area of, Alameda County, designated Assessor's Parcel Number:

084A-0185-001-01.

Planning staff recommended approval of the application. The Castro Valley Municipal Advisory Committee was in favor of approval as well. Member Palmeri asked if the Alameda County Public Works Department had responded regarding parking and circulation on the property. Bob Bohman from Alameda County Public Works responded verbally. His comment was that the existing street was narrow.

Members Roos and Friedman had the following questions:

- Was dirt a suitable material for the driveway
- Were 300 the maximum number of children that could be at the facility at one time
- Was 10 years the average use permit length for facilities of this type
- What are the traffic issues on Rolando Avenue between John Drive and Camino Delores
- How are the two open fields currently being utilized

Staff said licenses are categorized by age groups. The child care license was for up to 129 children. The total number of children at the facility, including the 6, 7, & 8th grades must not exceed 300 students. Currently there are 24 infants, 105 toddlers, and 97 elementary school children enrolled at the facility.

Public testimony was opened. Georgina Meehan introduced herself. As a mitigation measure the applicant staggers the student start times to ease the flow of traffic. The staff guide requests that no one park on Rolando Avenue. Parking spaces in the front are reserved for parents. When student enrollment is at a level higher than it is at present the school uses a traffic monitor for a 45 minute period daily. A traffic bump was also installed on Rolando Avenue several years ago which manages traffic using Rolando Avenue to get to Castro Valley Boulevard. She also submitted a packet to the Board detailing traffic control. The driveway is made of gravel and is frequently filled in. The fields are owned by the San Lorenzo Unified School District. One of the fields is being used for soccer. The other field has multiple sink holes and is not safe for use. The school would not object to the community using the field too. Any interested party would need to get permission from the School District, and obtain their own insurance. Public testimony was closed.

The Chair asked for clarification regarding prior applications on the property. Conditional Use Permit, C-3924 from January 7, 1981 was for a period of five years. Conditional Use Permit, C-4751 from September 1984 was for a period of two years, and the 1990 permit, Conditional Use Permit, C-5840 was for a nursery school that would allow up to 145 children. Ms. Meehan responded to the Board that the prior owner had those applications and they were no longer applicable. She purchased the school, March 1, of 1990.

Member Friedman motioned to approve the permit for a period of five years. Member Palmeri seconded the motion. Motion carried 4/0. Member Spalding was excused.

5. **FIRST PRESBYTERIAN CHURCH, CONDITIONAL USE PERMIT, C-8377** – Application to allow continued operation of a Childcare Facility for up to 150 children in a R-S-D-20 (Suburban Residence with 2,000 square feet Minimum Building Area per Dwelling Unit) District, located at 2490 Grove Way, northwest side, approximately 172 feet northeast of Redwood Road, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 0416-0030-014-03.

Staff recommended approval of the application for a period of ten years due to the fact that no complaints

had been received from Code Enforcement regarding the subject site. Member Palmeri asked staff if the Planning Consideration Bullet #5 was still applicable since the commercial space, now housed Trader Joe's. Staff clarified that aspect was a carryover from a previous application on the property. Public testimony was opened.

The applicant, Caroline Barbaria said she had served on the Board for the School for 15 years. The school had accreditation beyond what Community Care Licensing requires. The school was also voted Best of the Bay. Another member of the church board, Dean Nielsen spoke in favor of a ten, year permit expiration. The school had never received any complaints and was a ministry of the church. The Church had gone to great lengths to be a good member of the community, taking in kids whose parents were not able to afford private school. Parking was not an issue with clear ingress and egress. He felt the school was a blessing. Lora Koon, said her children attended the school when they were young and that she was currently on the Board of Directors. She was also in favor of a 10 year permit. Public testimony was closed.

Member Friedman said the school did have an exemplary record, however the other applications heard today had excellent reputations as well. It would be consistent to approve the permit for a period of five years. Member Friedman motioned to approve the application for five years. Member Palmeri seconded the motion. Motion carried 4/0. Member Spalding was excused.

6. **RIDDLE / RST & ASSOCIATES, SITE DEVELOPMENT REVIEW S-1960 AND VARIANCE, V-11897** – Application to construct 11 condominium units, three stories in height and 33 feet, where two stories and 25 feet are the maximum, on a 0.50 acre site in a R-S-D-20 (Suburban Residence with 2,000 square feet Minimum Building Area per Dwelling Unit) located at 156 and 164 Laurel Avenue, north side, approximately 720 feet south west of Princeton Avenue, unincorporated Cherryland area of Alameda County, designated Assessor's Parcel Number: 0429-0091-065-00.

The staff recommendation was denial of the application. Public testimony was opened. The applicant was not present. Ms. Erica Campisi has lived in the area for 35 years. She is a Member of the Cherryland Association but she was there representing herself. She was in agreement with some of the serious concerns mentioned in the Cherryland Association's letter to the Planning Department. Some of the Association's comments were the following:

- The height of the proposed condominium complex would impact the residents on Laurel Avenue
- There was lack of detailed information about proposed landscaping on property
- No playground was designated

Ms. Campisi said her concerns were that the site was not large enough to accommodate a play area. The applicant estimated there would be six children in the condominium complex. It was more likely there could be 20 children or more. No play area had been designated in the design of the site. Public testimony was closed.

Member Palmeri asked staff if the applicant had been notified of the hearing. Staff confirmed that a staff report and agenda had been sent to the applicant. Member Palmeri stated that he concurred with staff and would recommend denial of the application. His concerns were:

- The seven condominiums would be crowded on the parcel without full consideration as to the eventual needs of the future residents.

- The project would also have a cumulative impact on the community.
- Parking requirements were minimal. It was highly likely that parking would spill out into the front and down the street of the project
- The local elementary school was already at capacity with 10 portable structures. The developer would be required to pay a density impact fee however it would not be sufficient to mitigate the impact

He did not feel he could make a positive finding regarding the application. He most strongly agreed with Tentative Finding #3. The project would be detrimental to the community in a number of ways. Member Palmeri motioned to adopt the staff finding, regarding Tentative Findings #1, #2, and #3 in denial of the application. The Chair interjected and observed that in the past when an applicant did not appear the item was put forward for a period of two weeks. He asked the Board Members if they would be inclined to continue the application. Member Roos agreed that the Board had subscribed to that policy in the past. Member Palmeri said he would modify his motion and table his recommendation of denial for two weeks. If the applicant was not present at the April 13, 2005 hearing he would renew his motion for denial. Member Friedman seconded. The motion will be tabled for two weeks, and the application continued to the April 13, 2005 hearing. Motion carried 4/0. Member Spalding was excused.

7. **LUIS PEREZ, VARIANCE, V-11903** – Application to allow expansion of a non-conforming use (single family dwelling with no required parking spaces) by construction of an attached two story addition in a R-1-SU (Single Family Residence with a Secondary Dwelling Unit) District, located at 1480 Plaza Drive, east side, approximately 50 feet east of 156th Avenue, unincorporated Ashland area of Alameda County, designated Alameda County Assessor's Parcel Number: 0080-0035-077-02. (Continued from February 23, 2005).

Staff reminded the Board the application was before them at the February 23, 2005 meeting. The recommendation at that time was denial. Staff suggested that the existing house could be expanded instead of adding a secondary unit. This would create parking in the rear. The applicant has modified the design and returned to have the Board re-consider the application. Staff is now recommending approval of the application. The only issue that is of concern is the driveway width.

The Chair and Board Members asked staff the following questions:

- Does the driveway abut the original house
- Would a 7'-6" driveway accommodate large vehicles like a Hummer or an RV
- What documentation verified that a second unit was not allowed to be built on the property

Staff confirmed that the driveway did abut the home on the property. The applicant would be required to file a Limitation of Use with the Alameda County Recorders Office. The Recorders Office will send a copy to the Planning Department after filing. Public testimony was opened.

Mr. Perez said he read the staff report and was in agreement with all of the Pre-Hearing Recommendations but would like to modify Condition #3 if possible. He would like to tear the porch down and add vegetation to keep people from parking in the front of the house. The contractor assisting Mr. Perez was also present. He pointed out that the house was a Tudor Style and the porch design was not suitable for the facade. Public testimony was closed.

Member Palmeri motioned to adopt the Tentative Staff findings subject to the plans attached to the

packet. Condition #3, will be modified to allow removal of the front porch and modification of the dwelling entrance. Subject to compliance with Alameda County Building Departments requirements and necessary permits. Implementation of a landscape plan that would prohibit parking in front home must be approved by the Alameda County Planning Director. Member Friedman seconded the motion. Motion carried 4/0. Member Spalding was excused.

8. **ANTHONY T. FURLONG, VARIANCE, V-11910** – Application to a effect a boundary adjustment thereby providing a five foot side yard where ten feet is the minimum required, in a R-S-D-20 (Suburban Residence with 2,000 square feet Minimum Building Site per Dwelling Unit) District, located at 20545 and 20541 Forest Avenue, west side, approximately 767 feet north of Castro Valley Boulevard, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Numbers: 084C-0724-045-00 and 084C-0724-078-00.

Staff recommended approval of the application. The application is as a result of a mistake that was uncovered during the last stages a final map. A pre-existing building on the parcel directly to the east crosses over the property line one foot – nine inches. Member Roos asked if the boundary adjustment would then allow 4 feet between the house and the property line. Staff confirmed the distance would be 4 and ½ feet.

Public testimony was opened. Mr. Furlong told the Board the structure had been there since 1951 and the only other option was to tear the structure down. Public testimony was closed.

Member Roos motioned to uphold the staff recommendation to approve the boundary adjustment. Member Friedman seconded the motion. Motion carried 4/0. Member Spalding was excused.

APPROVAL OF MINUTES:

Member Palmeri motioned to approve the Minutes of March 9, 2005 as submitted. Member Roos seconded the motion. Motion carried 4/0. Member Spalding was excused.

STAFF COMMENTS & CORRESPONDENCE:

Staff announced that the appeal for V-11879, Perez would be heard at the April 7, 2005 Board of Supervisor's Meeting. The Crowell appeal, C-8280 had been continued to the April 7th Meeting and would be heard as well.

County Counsel reported that a Federal Law Suit was filed in response to the Alameda County Board of Supervisor's denial of the Tavake appeal.

Eric Chambliss announced that he was retiring and this would be his last meeting. County Counsel, Brian Washington will replace him. The entire Board of Zoning Adjustments thanked Mr. Chambliss for the excellent services he had provided as a Public Servant and wished him well in retirement.

CHAIR'S REPORT:

No Chair's Report was submitted.

BOARD'S ANNOUNCEMENTS, COMMENTS AND REPORTS:

The Board requested expanded Minutes on Agenda Item #6, S-1960/V-11897.

ADJOURNMENT:

There being no further business, the hearing adjourned at 3:40 p.m.

CHRIS BAZAR - SECRETARY
WEST COUNTY BOARD OF ZONING ADJUSTMENTS